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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,228	08/08/2001	Edward A. Jesser	EMS-02-016U	3140
7590 12/14/2004			EXAMINER	
Ralph C. Francis Francis Law Group 1808 Santa Clara Ave Alameda, CA 94501			PHAM, TOAN NGOC	
			ART UNIT	PAPER NUMBER
			2632	

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/925,228

Applicant(s)

JESSER, EDWARD A.

Examiner

Toan N Pham

Art Unit

2632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/02/01.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brady et al. (US 6,100,804).

Regarding claim 1: Brady et al. discloses a first substrate having first and second surfaces a passive loop disposed on the substrate and adapted to receive and transmit the RFID signal; and a RFID tag member including a second substrate having first and second surfaces and a RFID tag disposed on the second surface; second substrate second surface being removably secured to the first substrate surfaces proximate the passive loop, the tag having a first operating frequency (col. 6, lines 50-61; col. 7, lines 15-64). Brady et al. does not disclose the tag being magnetically coupled to the passive loop; however, it is merely a matter of design choice for attaching and affixing the tag to a substrate surface.

Regarding claim 2: Brady et al. discloses the passive loop is embedded in the first substrate (Fig. 8A).

Regarding claim 3: Brady et al. discloses the second substrate including adhesive to attach the tag member to an article (col. 6, lines 32-49).

Regarding claim 4: Brady et al. does not disclose the tag being magnetically

coupled to the passive loop; however, it is merely a matter of design choice for attaching and affixing the tag to a substrate surface.

Regarding claim 5: Brady et al. does not disclose the inductance and a fixed capacitance is substantially equal to first operating frequency; however, it is merely obvious that each tag operates under different frequency depending on the designer; thus, it is obvious that the value of the capacitance and inductance used is merely an obvious design choice.

Regarding claim 6: Brady et al. discloses the substrate surfaces includes adhesive for attaching the substrate to an article (col. 6, lines 32-49).

Regarding claim 7: Brady et al. discloses a first substrate having first and second surfaces a passive loop disposed on the substrate and adapted to receive and transmit the RFID signal; and a RFID tag member including a second substrate having first and second surfaces and a RFID tag disposed on the second surface; second substrate second surface being removably secured to the first substrate surfaces proximate the passive loop, the tag having a first operating frequency (col. 6, lines 50-61; col. 7, lines 15-64). Brady et al. does not disclose the tag member is being disposed on the container surfaces proximate the passive loop; however, it is merely a matter of design choice for attaching and affixing the tag to difference surfaces on the tag assembly.

Regarding claim 8: See claim 2 above.

Regarding claim 9: See claim 3 above.

Regarding claim 10: See claim 1 above.

Regarding claim 11: See claim 2 above.

Regarding claim 12: Brady et al. does not disclose the tag member is being disposed on the container surfaces proximate the passive loop; however, it is merely a matter of design choice for attaching and affixing the tag to difference surfaces on the tag assembly.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art of Miehling (US 6,687,131), Shin et al. (US 6,717,248), Horiuchi et al. (US 6,731,010) and Credelle et al. (US 6,816,380) are cited to show a variety of RFID tag assembly.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan N Pham whose telephone number is (571) 272-2967. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J Wu can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

December 10, 2004

TOAN N. PHAM
PRIMARY EXAMINER
